

MAR 15 1985

FILED

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
Tax Division

SQUARE 254 LIMITED PARTNERSHIP, :  
et al., :  
Petitioners, :  
v. : Tax Docket No. 3405-84  
DISTRICT OF COLUMBIA, :  
Respondent. :

O R D E R

This matter came before the Court for hearing on petitioners' Motion for Partial Summary Judgment and respondent's Opposition thereto.

Petitioners claim that the First-half supplemental assessment for Tax Year 1984 was conducted illegally by the District and that, because no material facts relevant to the disposition of this case remain in dispute, they are entitled to judgment as a matter of law. Respondent, the District of Columbia, argues that the supplemental assessment for the contested period was legitimate based on revisions in the D.C. Code §§47-029 and 030 enacted in June of 1983 governing supplemental assessments.

1. Findings of Fact

The material facts of this case are not in dispute and may be briefly summarized:

1. Petitioner Square 254 Limited Partnership, Quad-range Development Corporation, Managing General Partner (Square 254), is a limited partnership organized and existing under the laws of the District of Columbia.

2. Petitioner Square 254 is the lessee of real estate in the District known as Lot 032 in Square 254 (the subject property) improved by premises known as 1331 Pennsylvania Avenue, N.W., and the owner of improvements thereon (except

the National Theater, which is leased), and by the terms of the land lease agreement is obligated to pay all real estate taxes assessed against the subject property and is authorized to contest the assessment of such taxes.

3. In March, 1983, petitioners received notices of annual assessment dated February 25, 1983, stating that the total assessment on Lots 832 and 834 in Square 254 for Tax Year 1984 was \$63,162,967.

4. Petitioners appealed to the Board of Equalization and Review and a hearing was held before the Board of Equalization and Review. The Board affirmed the assessment by decision dated June 1, 1983.

5. On August 1, 1983, petitioners received a notice of assessment increasing the previous assessment of Lot 832 in Square 254 from \$63,032,042 to \$103,978,526 citing D.C. Code §47-829 as authority for the assessment.

6. The notice stated the "Reason for Change" was "new structures erected or roofed or additions to existing structures during the time period of January 1st through June 30th of this calendar year (1983) D.C. Code Section 47-829."

7. Appeal to the Board of Equalization and Review was filed and a hearing on the legality of the supplemental assessment was held on September 30, 1983. The Board affirmed the assessment.

8. The Tax Year 1984 taxes of \$2,217,514 were paid. First-half taxes of \$1,100,757.13 were timely paid on September 15, 1983; Second-half taxes of \$1,306,099.50 were timely paid on March 30, 1984.

9. Petitioners filed an appeal with this Court on March 30, 1984.

## II. Conclusions of Law

The District made the annual supplemental assessment under the purported authority of the amended version of D.C. Code §47-829 (1981 ed.). The District correctly points out that both Sections §47-829 and §47-830 were amended by City Council and became law June 22, 1983, and by its terms effective beginning July 1, 1983. See D.C. Law 5-14, §704 which specifies that the new amendment shall apply to real property tax years beginning after June 30, 1983.

Formerly, the statutes at issue included no provision for supplemental assessments of any construction in progress after the improvement is erected and roofed but prior to its completion. The amendments including such language were enacted on June 22, 1983, and effective July 1 of that year.

The basis for petitioners' Motion for Partial Summary Judgment is that no material facts are in dispute and that petitioners are entitled to a judgment as a matter of law that the supplemental assessment of the subject property for the First-half of Tax Year 1984 was conducted illegally based on the amended version of §47-829. They assert that the amendment allowing the District to supplementally assess the property was, in fact, not yet in effect. The District opposes this contention while never actually addressing the petitioners' argument: that the amendment, by its own description, did not become effective until July 1, 1983, the beginning of the Second-half of Tax Year 1984, and may not be applied retroactively to supplementally assess the subject property for the period from January through June, 1983.

The Court is keenly aware of the confusion and controversy surrounding interpretation of §§829 and 830, both original and as amended. See Quinn 234 Limited Partnership v. District of Columbia, Tax Docket No. 3313-83, (D.C. Super.

Ct., May 13, 1985). However, it is clear from the language of the statute and the law governing its amendment that it was intended to be applied prospectively beginning on July 1, 1983.


Summary judgment will lie when there are no disputed material facts and when the moving party is entitled to judgment as a matter of law. Willis v. Check, 307 A.2d 716 (1978). In this case there are no disputed facts material to the First-half Tax Year 1984 annual supplemental assessment and petitioners are entitled to partial summary judgment as a matter of law. The unamended version of S47-629 is the applicable statute. The subject improvements were not roofed during the period January 1 to June 30, 1983, and had previously been assessed for Tax Year 1983. The amendments did not take effect until July 1, 1983, and therefore do not apply here. The Court concludes that there was no statutory authority for respondent's supplemental First-half assessment for Tax Year 1984.

Wherefore, it is this 12<sup>th</sup> day of March, 1986,

ORDERED that petitioners' Motion for Partial Summary Judgment be granted; and it is

FURTHER ORDERED that the supplemental assessment for the First-half of Tax Year 1984 made against Lot 032 in Square 254 is void, illegal, and invalid and is hereby set aside; and it is

FURTHER ORDERED that respondent is to present an Order for refund to petitioner all real estate taxes paid on the amount of the supplemental increase, with interest, within ten days of the signing of this Order.

  
JAMES H. HARRIS, Jr., Clerk

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